

Message Text

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SUBJECT:PRIVACY ACT GUIDELINES ON DISCLOSURE OF INFORMATION

1. IN REPLYING TO IMPRISONED AMERICANS' QUESTIONS CONCERNING WHAT INFORMATION ABOUT THEM IS DISTRIBUTED TO OTHER AGENCIES, CONSULAR OFFICERS SHOULD RELATE TO PRISONER THE IDEA THAT CONSULAR FILES ARE COMPILED PRIMARILY FOR THE PURPOSE OF PROVIDING PROTECTION AND ASSISTANCE TO AMERICAN CITIZENS IN FOREIGN COUNTRIES AND NOT FOR LAW ENFORCEMENT PURPOSES. THERE IS, THEREFORE, NO AUTOMATIC OR MANDATORY DISSEMINATION OF INFORMATION IN CONSULAR FILES TO OTHER AGENCIES AND THAT ANY EXCHANGE OF INFORMATION IS CONTROLLED, ULTIMATELY, BY THE JUDGMENT OF THE OFFICER MAINTAINING THE INFORMATION WHEN HE ASSESSES THE FACTS OF THE PARTICULAR CASE, THE LAW, WHAT FACTS HE THINKS MAY BE RELEVANT TO ANOTHER AGENCY, WHAT INFORMATION ANOTHER AGENCY HAS REQUESTED.

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2. PRISONERS MAY ALSO BE ADVISED THAT, GENERALLY, THE DEPARTMENT CAN DISCLOSE PERSONAL INFORMATION PROTECTED UNDER THE PRIVACY ACT FROM ONE OF ITS NAME-RETRIEVABLE RECORD SYSTEMS TO ANOTHER AGENCY ON ITS OWN INITIATIVE ONLY IF THAT AGENCY HAS BEEN IDENTIFIED AS A ROUTINE USER OF THAT SYSTEM, AND THAT THE DEPARTMENT CAN DISCLOSE INFORMATION IN THE PUBLIC DOMAIN OR INFORMATION WHICH IS

A MATTER OF PUBLIC RECORD TO ANYONE WHO REQUESTS IT.
PRISONERS MAY BE ADVISED THAT IN MANY COUNTRIES AN ARREST
RECORD IS A PUBLIC RECORD.

3. THE JAILED AMERICAN SHOULD BE AWARE THAT UNDER THE
PRIVACY ACT THE DEPARTMENT IS REQUIRED TO LIST THE ROUTINE
USERS OF ITS INFORMATION SYSTEMS. ONE OF THE PURPOSES OF
PUBLICATION OF ROUTINE USERS IS TO GIVE AN INDIVIDUAL WHO
MAY BE IN A RECORD SYSTEM NOTICE OF ALL OTHER PROBABLE
RECIPIENTS OF THE INFORMATION ABOUT HIM. JUSTICE DEPART-
MENT AND DEA ARE LISTED AS ROUTINE USERS OF CONSULAR FILES.
THE DEPARTMENT HAS ALSO PUBLISHED CERTAIN ROUTINE USES
THAT APPLY TO ALL OF ITS SYSTEMS OF RECORDS. THESE ARE
FOUND IN THE DEPARTMENT'S PREFATORY STATEMENT OF ROUTINE
USES. ONE OF THE PREFATORY ROUTINE USES STATES THAT
"IN THE EVENT THAT A SYSTEM OF RECORDS MAINTAINED BY (THE
DEPARTMENT) TO CARRY OUT ITS FUNCTIONS INDICATES A
VIOLATION OR POTENTIAL VIOLATION OF LAW...RELEVANT RECORDS
IN THE SYSTEM OF RECORDS MAY BE REFERRED, AS A ROUTINE
USE, TO THE APPROPRIATE AGENCY...CHARGED WITH THE RESPON-
SIBILITY OF INVESTIGATING OR PROSECUTING SUCH VIOLATION..."
ONE OF THE REASONS CITED BY THE JUSTICE DEPARTMENT IN
REQUESTING ALL FEDERAL AGENCIES TO ADD THIS ROUTINE USE IS
THAT, ALTHOUGH LAW ENFORCEMENT AGENCIES MAY MAKE WRITTEN
REQUESTS FOR INFORMATION ON AN INDIVIDUAL (A (B)(7)
REQUEST UNDER THE PRIVACY ACT), THE LAW ENFORCEMENT
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AGENCIES MAY HAVE NO IDEA RELEVANT INFORMATION ON AN
INDIVIDUAL EXISTS IN THE FILES OF ANOTHER AGENCY UNLESS
THE OTHER AGENCY TELLS THE LAW ENFORCEMENT AGENCY THAT
IT IS IN POSSESSION OF INFORMATION THAT SEEMS TO
REASONABLY RELATE TO LAW ENFORCEMENT PURPOSES. THUS, IF
OUR RECORDS INDICATE WE HAVE KNOWLEDGE THAT THE PRISONER
IS A FUGITIVE FROM U.S. JUSTICE, THE APPROPRIATE U.S. LAW
ENFORCEMENT AGENCY WILL, IN ALL PROBABILITY, BE NOTIFIED
IF THE FUGITIVE INDICATES A DESIRE TO RETURN TO THE U.S.
OR IT APPEARS HE IS GOING TO BE DEPORTED. AS A MATTER OF
PRACTICE, IN MOST OF THESE CASES THE FUGITIVE IS ISSUED
A CARD OF IDENTITY GOOD ONLY FOR RETURN TO THE UNITED
STATES SINCE PASSPORT REVOCATION ACTION WILL HAVE BEEN
TAKEN. UPON RETURN TO THE U.S., A FUGITIVE WOULD, OF
COURSE, BE MET BY APPROPRIATE LAW ENFORCEMENT AUTHORITIES.
IF THE PRISONER IS NOT A FUGITIVE BUT HAS BEEN INCARCER-
ATED ON LOCAL CHARGES OF INTEREST TO THE USG, SUCH AS
DRUG TRAFFICKING, THERE WOULD BE LESS REASON FOR HIM TO
EXPECT ANY SORT OF "SPECIAL RECEPTION" OR "TREATMENT",
ALTHOUGH THE DEPARTMENT CANNOT SPEAK FOR OTHER AGENCIES.
FOR EXAMPLE, WE HAVE NO WAY OF KNOWING WHETHER CUSTOMS
SERVICE WILL GIVE A MORE THOROUGH SEARCH OF SOMEONE REEN-

TERING U.S. WHO THEY KNOW HAS SERVED TIME OVERSEAS FOR
DRUG POSSESSION OR TRAFFICKING.

4. PRISONERS SHOULD BE ADVISED THAT THE DEPARTMENT HAS NO
CONTROL OVER WHAT FOREIGN GOVERNMENTS MAY PASS DIRECTLY TO
DEA REPRESENTATIVES OR LEGATT OR WHAT MAY BE PASSED
THROUGH INTERPOL OR OTHER CHANNELS. IT MAY WELL BE THAT
THESE AGENCIES WILL HAVE MORE INFORMATION ABOUT A PRISONER
FROM THEIR SOURCES THAN IS KNOWN TO THE DEPARTMENT. VANCE

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